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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,054	03/27/2001	Jeffrey Paul Grundvig	20-149	9186

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EXAMINER

PHILPOTT, JUSTIN M

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/817,054

Applicant(s)

GRUNDTVIG ET AL.

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-13, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed May 8, 2006 have been fully considered but they are not persuasive.
2. First, applicant argues (pages 5-6) that Kojima does not teach data frames include a sync word "as transmitted" as recited in applicant's claims 1-3 and 5. However, as indicated in the previous office action, Kojima does in fact teach this broad claim limitation. Specifically, while applicant focuses the argument on a distinction between "detected" and "transmitted" (in applicant's remarks at page 6) Kojima teaches applicant's claim limitations in FIG. 4 and col. 6, line 40 – col. 7, line 62. More specifically, Kojima teaches "FIG. 4 is an explanatory view of the signal format supplied from the transmitting station". Accordingly, the signal shown in FIG. 4 is inherently *transmitted* by the *transmitting station*. Turning to FIG. 4, Kojima clearly teaches "SYNCHRONOUS WORDS" SWA, SWV and SWM are included within the aforementioned signal in at least two adjacent time slot based data frames, described in the specification as video, audio and other media (col. 6, line 40 – col. 7, line 62). Kojima also teaches "less than all" of the frames include a synchronous word, and particularly at least two adjacent frames do not include a synchronous word, by clearly providing portion "PA" that does not include a synchronous word within the frames labeled "CCR" and "CI". Accordingly, Kojima teaches the limitations of applicant's claims 1-3 and 5. Thus, applicant's argument is not persuasive.
3. Second, applicant argues (page 6) that Kojima does not teach the newly added claim limitation of the sync word being located "at the beginning of said time slot based data frames".

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However, this argument is moot in view of the new rejection in the following office action.

Specifically, shifting the location of a synchronous word in data frames from a middle portion to a beginning portion would have been obvious to one of ordinary skill in the art since it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950).

#### *Claim Objections*

4. Claim 1 is objected to because of the following informalities: it appears that “including” (claim 1, line 5) should be changed to “include” in order to correct a grammatical error.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 5,886,999 to Kojima et al.

Regarding claim 1, Kojima teaches a system using a data format (e.g., see col. 4, line 38 – col. 12, line 41), comprising: at least one of a transmitter and a receiver to receive a transmitted plurality of time slot based data frames (e.g., SWV/VDT, SWA/ADT, and SWM/MDT, see FIG. 4) (see also col. 6, lines 40-43 regarding transmitting from station 1, and

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also see col. 7, lines 50-62 regarding outputting the synchronous words to units 30 and 50 via controllers 17c and 18c which is inherently a transmission), wherein less than all but more than one (e.g., audio and other media remain, but video signal SWV/VDT is stopped, see col. 10, lines 31-39; see also col. 6, line 39 – col. 7, line 27 regarding one or more synchronous words are not detected) of the plurality of time slot based data frames, as transmitted (e.g., see col. 7, lines 50-62 regarding outputting the synchronous words without stop signal SPC or the undetected words corresponding to the stop signal; see also col. 6, line 40 – col. 8, line 55), include a sync word (e.g., SWV/VDT comprising sync word SWV, SWA/ADT comprising sync word SWA, and SWM/MDT comprising sync word SWM); wherein at least two adjacent ones of the plurality of time slot based data frames, as transmitted, do not include a sync word (e.g., see col. 6, line 39 – col. 7, line 27 regarding an instance where a plurality of predetermined number of synchronous words are not detected in a predetermined period, and see col. 7, lines 50-62 regarding outputting the synchronous words without stop signal SPC or the undetected words corresponding to the stop signal; see also col. 6, line 40 – col. 8, line 55).

Kojima, however, may not specifically disclose the sync word is at a beginning of all the time slot based data frames. However, it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to shift the location of the synchronous words from *middle* portions of the time slot based data frames to the *beginning* of the time slot based data frames since it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. The contention of

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obvious choice in design can be overcome if Applicant establishes unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950).

Regarding claim 2, Kojima teaches the time slot based data frames are TDMA frames (e.g., see col. 1, lines 53-67 regarding TDMA).

Regarding claim 3, Kojima teaches the sync word is included at the beginning of the less than all of the transmitted plurality of time slot based data frames (e.g., see FIG. 4 wherein sync words are included prior to the data).

Regarding claim 5, Kojima teaches the at least two adjacent ones of the plurality of time slot based data frames include data payload in a position containing the sync word in the less than all of the transmitted plurality of time slot based data frames (e.g., see FIG. 4 regarding data in each of the data frames within DT).

***Allowable Subject Matter***

7. Claims 6-13, 15 and 16 are allowed.

8. The following is an examiner's statement of reasons for allowance: claims 6-13, 15 and 16 were allowed in a previous office action (mailed April 13, 2005) by Examiner Kenneth N Vanderpuye, and these claims are herein allowed for the same reasons as previously determined.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571.272.3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin M. Philpott



CHI PHAM  
SUPERVISORY PATENT EXAMINER

7/7/06